

REMARKS

Claims 1 through 5, 8 through 12, 15 through 19, and 22 through 26 are currently pending in the application.

This amendment is in response to the Final Rejection of the pending claims in the Office Action of January 11, 2006.

35 U.S.C. § 112 Claim Rejections

Claims 1 through 5, 15 through 19, and 22 through 26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has amended the claimed inventions for the presently claimed inventions to particularly point out and distinctly claim the subject matter of the invention to comply with the provisions of 35 U.S.C. § 112, second paragraph. Applicant additionally asserts that presently amended independent claims 1, 8, 15, and 22 clearly comply with the provisions of 35 U.S.C. § 132 as no new matter has been added to the application. Therefore, presently amended claims 1 through 5, 8 through 12, 15 through 19, and 22 through 26 are allowable under the provisions of 35 U.S.C. § 112.

35 U.S.C. § 102(b) Anticipation Rejections

Anticipation Rejection Based on Cathey et al. (U.S. Patent 5,391,259)

Claims 1 through 5, 8 through 12, 15 through 19, and 22 through 26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Cathey et al. (U.S. Patent 5,391,259).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

After carefully considering the cited prior art, the rejections, and the Examiner's comments, Applicant has amended the claimed invention to clearly distinguish over the cited prior art.

Turning to the cited prior art, the Cathey et al. reference describes forming a substantially uniform array of atomically sharp emitter tips wherein the difference in the height of the emitter tips formed are in the range of better than 5%, more typically in the range of 10% to 20%.

Applicant asserts the Cathey et al. reference does not anticipate the claimed inventions of presently amended independent claims 1, 8, 15, and 22 under 35 U.S.C. § 102 because the Cathey et al. reference does not identically describe, either expressly or inherently, each and every element of the claimed inventions in as complete detail as contained in the claims.

Applicant asserts that the Cathey et al. reference does not describe the elements of the claimed inventions of presently amended independent claims 1, 8, and 22 calling for "at least one emitter in each pixel having substantially a same height as a corresponding pixel in another emitter of the emitter array, a material for each emitter comprising amorphous silicon, the at least one emitter and the another emitter having a size within about 0.15 microns of each other in a range from about 3.25 % to within 9.5 % of each other", "at least one emitter in each pixel having substantially a same height as a corresponding pixel in another emitter of the emitter array, a material for each emitter comprising amorphous silicon, the at least one emitter and the another emitter having a size within about 0.15 microns of each other", and "an emitter in each pixel having substantially a same height as another emitter of a corresponding pixel of the emitter display, a material for each emitter comprising amorphous silicon, the emitter and the another emitter having a size within about 0.15 microns of each other in a range from about 3.25 % to within 9.5 % of each other". In contrast to the claimed inventions of presently amended independent claims 1, 8, 15, and 22 Applicants asserts that the Cathey et al. reference merely describes forming a substantially uniform array of atomically sharp emitter tips wherein the difference in the height of the emitter tips formed are in the range of better than 5%, more typically in the range of 10% to 20%. Applicant asserts that such a description is not the claimed

inventions of presently amended independent claims 1, 8, 15, and 22. Accordingly, presently amended independent claims 1, 8, 15, and 22 are allowable as well as the dependent claims therefrom.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent 5,391,259 to Cathey et al.

Claims 3 through 5, 10 through 12, 17 through 19, and 24 through 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cathey et al. (U.S. Patent 5,391,259). Applicant respectfully traverses this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

After carefully considering the cited prior art, the rejections, and the Examiner's comments, Applicant has amended the claimed invention to clearly distinguish over the cited prior art.

Applicant asserts that dependent 3 through 5, 10 through 12, 17 through 19, and 24 through 26 are allowable as they depend from allowable presently amended independent claims 1, 8, and 22 for the reasons set hereinabove.

Applicant requests entry of this amendment for the following reasons:

The amendment is timely filed.

The amendment does not require any further search or consideration.

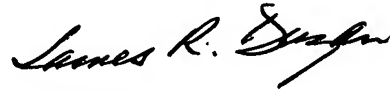
The amendment places the application in condition for allowance.

In summary, Applicant submits that claims 1 through 5, 8 through 12, 15 through 19, and 22 through 26 are clearly allowable over the cited prior art.

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Applicant requests the entry of this amendment, the allowance of claims 1 through 5, 8 through 12, 15 through 19, and 22 through 26, and the case passed for issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James R. Duzan". The signature is fluid and cursive, with a long horizontal stroke at the end.

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